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Office of the Secretary

REDACTED – FOR PUBLIC INSPECTION

September 18, 2019

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Attention: Wireline Competition Bureau

Re: TrioTel Communications, Inc. Petition for Waiver of Sections 51.917(b)(1) and 51.917(b)(7) of the Commission's Rules

Dear Ms. Dortch:

On behalf of TrioTel Communications, Inc., please find enclosed the Petition for Waiver of Sections 51.917(b)(1) and 51.917(b)(7) of the Commission's Rules to modify 2011 Base Period Revenue in connection with the merger of affiliated study areas in South Dakota.

Inquiries may be directed to the undersigned consultant for TrioTel Communications, Inc.

Sincerely,



Marlene Bennett
Consortia Consulting
mbennett@consortiaconsulting.com

Enclosures



REDACTED-FOR PUBLIC INSPECTION

September 18, 2019

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Request for Confidentiality
TrioTel Communications, Inc. Petition for Waiver of Sections 51.917(b)(1) and
51.917(b)(7) of the Commission's Rules**

Dear Ms. Dortch:

Consortia Consulting, on behalf of its client, TrioTel Communications, Inc. ("Company"), hereby requests, pursuant to Section 0.459 of the Commission's rules,¹ withholding from public inspection of the above referenced document. The Company provides the following in support of its request, numbered consistent with the subparagraphs of Section 0.459(b).²

1. The information for which the Company is seeking confidential treatment is switched access revenue information contained in the Petition for Waiver and switched access revenue, cost, demand, access line and eligible recovery details contained in Exhibit A of the Petition.
2. The Company is submitting the Petition for Waiver in order to implement the planned merger of two commonly-owned study areas. The Petition for Waiver is required to ensure compliance with FCC rules governing modification of 2011 Base Period Revenue.³
3. The switched access revenue, cost, demand, access line and eligible recovery details in the Petition for Waiver for which the Company seeks the withholding from public inspection is confidential and proprietary financial data.
4. With respect to identifying the degree to which the Company's financial information concerns a service that is subject to competition, this type of information is highly sensitive

¹ 47 C.F.R. § 0.459.

² 47 C.F.R. § 0.459(b)(1)-(9)

³ 47 C.F.R. § 51.917(b)(1) and (b)(7)

and its public disclosure would place the Company at a competitive disadvantage in the telecommunications marketplace.

5. With respect to identifying possible exposure to competitive harm, this information is provided on a study area-specific basis and could have economic value to potential competitors as it may provide competitors insight into the Company's market strategies and gain competitive advantage.
6. With respect to steps the Company has taken to ensure against unauthorized disclosure of its financial information, this information is maintained confidentially by the Company and is not available through any source other than the Company or its authorized agents.
7. The Company's financial information is not available to the public and has not been previously disclosed.
8. The Company requests the financial information be treated as confidential indefinitely. Because of the sensitive nature of the data, it would not be appropriate for public disclosure at any time in the foreseeable future.
9. The Commission has previously found that this type of information warrants protection under Protective Order for annual access tariff filings in which similar financial data is provided.⁴

Based on the preceding, Consortia Consulting respectfully requests on behalf of the Company that the Commission grant confidential treatment under Section 0.459 to the financial data contained in the Company's Petition for Waiver and Exhibits. The Petition for Waiver is appropriately marked "Confidential-Not for Public Disclosure."

A Redacted Confidential filing is being submitted via the Commission's Electronic Comment Filing System (ECFS). Please contact the undersigned with any questions regarding this request.

Sincerely,

Marlene Bennett
Consortia Consulting
mbennett@consortiaconsulting.com

⁴See *announcing Procedures for obtaining Confidential Information for 2018 Annual Access Charge Tariff Filings and Corrections to TRP Spreadsheets*, WC Docket No. 18-100, Public Notice DA 18-578 rel. June 4, 2018.

Before the
Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)
)
TrioTel Communications, Inc.)
)
Petition for Waiver of Sections)
51.917(b)(1) and 51.917(b)(7) of the)
Commission’s Rules to modify the 2011 Base)
Period Revenue in connection with)
the merger of affiliated study areas in)
South Dakota)

PETITION FOR WAIVER

Pursuant to Section 1.3 of the rules of the Federal Communications Commission (“FCC” or “Commission,”¹ TrioTel Communications, Inc, (“TrioTel”, or “Petitioner”) hereby requests a waiver of the Sections 51.917(b)(1) and 51.917(b)(7) of the Commission rules to recalculate for merged study areas (TrioTel-McCook SAC 391669 (“McCook”) and TrioTel-Tri-County SAC 391682 (“Tri-County”)),² the 2011 Interstate Switched Access Revenue Requirement and 2011 Rate-of-Return Carrier Base Period Revenue necessary to determine Connect America Fund – Intercarrier Compensation (“CAF-ICC”) support.³ A waiver of Section 51.909(a) is not being requested because the study areas involved in this Petition are currently assigned to the same switched access rate bands, and therefore, a waiver of Section 51.909(a) is unnecessary. Grant of

¹ 47 C.F.R. § 1.3

² McCook Cooperative Telephone Company purchased Tri County Telecom in 2005. On January 1, 2010, McCook and Tri County merged under the current legal entity of TrioTel Communications, Inc and all subscribers became members of the Cooperative.

³ 47 C.F.R. § 51.917(b)(1) and (b)(7).

the requested waiver will allow Petitioner to implement the planned January 1, 2020 merger of the McCook and Tri-County study areas into TrioTel Communications, Inc.

I. INTRODUCTION AND SUMMARY

The Petitioner is a telephone cooperative operating as a rate-of-return incumbent local exchange carrier (“ILEC”) in South Dakota and is comprised of two study areas. McCook, Study Area Code 391669 has approximately 1,607 voice access lines, 276 Data only lines, and 1,262 Voice-Data lines operating in the following exchanges in South Dakota: Alexandria, Canova, Center, Salem, Spencer, and Winfred. The McCook study area has been administered as a cost company receiving legacy support. Tri-County, Study Area Code 391682, has approximately 332 voice access lines, 45 Data only lines, and 260 Voice-Data lines in the Emory and Clayton exchanges in South Dakota. The Tri-County study area has been administered as an average schedule company receiving legacy support. The Petitioner elected Alternative Connect America Model II (A-CAM II) support in 2019.

To allow the Petitioner the efficiency of managing switched access, special access, and CAF-ICC compliance for a single study area, the Petitioner will merge the McCook study area 391669 and the Tri-County study area 391682 effective January 1, 2020.⁴ As explained below, grant of this petition is required in order for the merger to occur.

The McCook SAC and the Tri-County SAC are in the same rate bands for switched access services set forth in the National Exchange Carrier Association (“NECA”) Tariff F.C.C. No. 5, and therefore no waiver is required under Section 51.909(a).⁵ However, waivers are

⁴ Subsequent to grant of the requested waiver, the Petitioner will file with the FCC Wireline Competition Bureau a letter notification of the planned merger of commonly-owned study areas within the state of South Dakota pursuant to FCC precedent.

⁵ 47 C.F.R §51.909(a).

required to recalculate for the merged study areas the 2011 Interstate Switched Access Revenue Requirement and 2011 Rate-of-Return Carrier Base Period Revenue necessary to determine CAF-ICC support. Therefore, Petitioner seeks waiver of Section 51.917(b)(1) to combine the 2011 Interstate Access Switched Access Revenue Requirements for the combined study areas into a consolidated 2011 Interstate Access Switched Access Revenue Requirement, and waiver of Section 51.917(b)(7) to combine the 2011 Rate-of-Return Base Period Revenues for the combined study areas into a single 2011 Rate-of-Return Base Period Revenue amount for the merged study area.

II. WAIVER STANDARD

In general, the FCC's rules may be waived for good cause shown.⁶ Waiver is appropriate where the "particular facts would make strict compliance inconsistent with the public interest."⁷ The FCC may grant a waiver of its rules where the requested relief would not undermine the policy objective of the rule in question, special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁸

III. WAIVER IS JUSTIFIED

A. Merger of McCook SAC and Tri-County SAC is in the Public Interest

The planned merger of the McCook and Tri-County study areas is consistent with Commission policy encouraging consolidation of commonly owned study areas in the same

⁶ 47 C.F.R. §1.3

⁷ See *AT&T Wireless Services, Inc. et al. v. Federal Communications Commission*, No. 00-1304 (D.C. Cir. 2001), citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

⁸ See generally, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); see also *Northeast Cellular* (D.C. Cir. 1990).

state.⁹ Further, Commission precedent supports grant of petitions seeking waiver of Sections 51.917(b)(1) and 51.917(b)(7) in the context of merging commonly owned study areas within a state.¹⁰ The public interest is served by the increased administrative and operational efficiencies gained by consolidating these study areas. The resulting cost savings will permit greater resources for network investment which will ultimately benefit Petitioner's customers. Grant of the requested waiver prior to the planned January 1, 2020 study area merger will allow Petitioner to fully realize the benefits of its existing single-entity operations by adding the efficiencies of administering a single entity and other regulatory compliance for a single study area.

⁹ See *In the Matter of America Samoa Government and the American Samoa Telecommunications Authority Petition for Waivers and Declaratory Rulings to Enable America Samoa to Participate in the Universal Service High Cost Support Program and the National Exchange Carrier Association Pools and Tariffs*, CC Docket No. 96-45, AAD/USB File No. 98-41, Order DA 99-1131, rel. June 9 1999, para. 10.

¹⁰ See *Connect America Fund; Developing a Unified Intercarrier Compensation Regime; Petition of Butler-Bremer Mutual Telephone Company, Inc. for a Waiver of Sections 51.909(a), 51.917(b)(1), and 51.917(b)(7) of the Commission's Rules to Modify Access Rate Bands and Charges, and 2011 Switched Access Revenue in Connection with Merger of Affiliated Study Areas in Iowa; Petition of Panora Communications Cooperative and Prairie Telephone Company, Inc. for Waiver of Sections 51.909(a), 51.917(b)(1) and 51.917(b)(7) of the Commission's Rules to Modify Access Rate Bands and Charges, and 2011 Switched Access Revenue Requirement and 2011 Base Period Revenue in Connection with Study Area Waivers in Iowa*, WC Docket Nos. 10-90, 15-118, 15-166; CC Docket No. 01-92, Order, 33 FCC Rcd 1152, at 1157-58, para. 16 (WCB 2018) (*Butler-Panora Order*) (outlining and applying relevant Commission precedent to approve the merger of two rate-of-return study area waiver petitions); *Connect America Fund; Developing a Unified Intercarrier Compensation Regime; Telapex, Inc. Petition for Waiver of Sections 51.909(a), 51.917(b)(1), and 51.917(b)(7) of the Commission's Rules to modify access rate bands and charges, and 2011 Base Period Revenue in connection with merger of affiliated study areas in Mississippi; Venture Communications Cooperative Petition for Waiver of Sections 51.909(a), 51.917(b)(1), and 51.917(b)(7) of the Commission's Rules to modify access rate bands and charges, and 2011 Base Period Revenue in connection with merger of affiliated study areas in South Dakota*, WC Docket Nos. 10-90, 17-252, 17-323; CC Docket No. 01-92, Order, 33 FCC Rcd 11764 (WCB 2018) (*Telapex-Venture Order*); see also *Federal-State Joint Board on Universal Service; Joint Petition for Waiver of the Definition of "Study Area" or the Appendix-Glossary of Part 36 of the Commission's Rules filed by Mutual Telephone Company of Sioux Center, Iowa d/b/a Premier Communications; Winnebago Cooperative Telecom Association*, WC Docket No. 10-90, CC Docket No. 96-45, Order, 31 FCC Rcd 10683 at 10691, para. 27 (WCB 2016) (approving allocating Base Period Revenue amounts using a simple average of the access line count for FY 2011 when only a portion of a study area is involved).

B. Zero Impact of Switched Access Rate Band Consolidation

As indicated previously, the McCook SAC and the Tri-County SAC share the same rate bands for Local Switching, Local Transport, and Tandem Switched Transport. Those rate bands will not change as a result of the proposed study area merger, and therefore, there will be no impact at all on switched access revenues. Therefore, a waiver of Section 51.909 (a) is not required.

C. Recalculation of 2011 Interstate Switched Access Revenue Requirement and Base Period Revenue Will Not Adversely Impact CAF-ICC

Exhibit A provides a summary of the expected CAF-ICC support as calculated by NECA. Access Recovery Charges will remain unchanged and therefore will have no impact on CAF-ICC or on end users. As described above, the Petitioner expects zero impact to switched access revenue, resulting in no change to CAF-ICC support. NECA projections indicate that the combined entity would receive [REDACTED] of CAF-ICC support for the projected test year 2019-2020 absent any changes to switched access rates, and as such, this change represents no impact on CAF-ICC for the test period.

IV. Conclusion

As demonstrated herein, "good cause" exists for grant of this waiver. Petitioners respectfully request the Commission act expeditiously to grant waiver of Section 51.917(b)(1) and 51.917((b)(7) of the rules in order that the McCook study area and Tri-County study area merger may be implemented January 1, 2020.

Respectfully Submitted,

By: Bryan Roth, General Manage and CEO
 TrioTel Communications, Inc
 330 S. Nebraska St.
 P.O Box 630
 Salem, SD 57058

Exhibit A

Projected Test Year 2019-2020 (Data based on input provided by company for the CAF/ICC Data Collection by NECA)

Interstate

Study Area	FY 2011 Frozen RevReq	2019-20 Projected RevReq	2018-19 EO Rate	2019-20 EO Rate	2018-19 Composite Rate	2019-20 projected Interstate MOU	Projected Revenue @ 2018-19 Rate	Allocated SWA Revenue	2015-16 Double Recovery Adj	Projected Eligible Recovery
391669			\$0.002133	\$0.000700	\$0.044935					
391682			\$0.002133	\$0.000700	\$0.042426					
Merged			\$0.002133	\$0.000700	\$0.044485					

Intrastate

Study Area	FY 2011 Frozen RevReq	2019-20 Projected RevReq	Projected Revenue @ 2019-20 Rate	Projected Eligible Recovery
391669				
391682				
Merged				

Recip Comp

Study Area	FY 2011 Frozen RevReq	2019-20 Projected RevReq	Projected Revenue @ 2019-20 Rate	Projected Eligible Recovery
391669				
391682				
Merged				

Exogenous Cost

Study Area	TRS Increment	Reg-Fee Increment	NANPA Increment	Total Costs
391669				
391682				
Merged				

ARC Revenue

Study Area	Residential Access Lines	SLB Access Lines	MLB Access Lines	Residential ARC Rate	SLB ARC Rate	MLB ARC Rate	Residential ARC Revenue	SLB ARC Revenue	MLB ARC Revenue	Total ARC Revenue
391669				\$3	\$3	\$3				
391682				\$3	\$3	\$3				
Merged				\$3	\$3	\$3				

2019-2020 Projected CAF/ICC Support

Study Area	2017-18 True-up	2019-20 CAF/ICC Support*
391669		
391682		
Merged		

* Interstate + Intrastate + Recip Comp + Exogenous - ARC + True-up

